CF0000061690

(2)

Single Bench (Criminal)

IN THE HIGH COURT OF JUDICATURE AT JABALPUR

CRI.APPEAL NO. 1510 /1997

Appellant
(In custody) : Raju alias Rajkumar
s/o Tiharu Suryavanshi,
Aged about 21 years,
r/o Masturi,
District- Bilaspur (M.P.)

Versus

Respondent : State of Madhya Pradesh,
through S.H.O.,
P.S. Masturi,
District- Bilaspur (M.P.)

CRIMINAL APPEAL UNDER SECTION 374(2)
OF THE CODE OF CRIMINAL PROCEDURE

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Filed on 26.7.07
by Shri P.D. Rao
Advocate
26/7/07
Rlg. A.R.

(15)

HIGH COURT OF CHHATTISGARH : AT BILASPUR.

Criminal Appeal No.1510/1997.

Appellant : Raju alias Rajkumar

- Vs. -

Respondent : State of Chhattisgarh.

J U D G M E N T

Hon.Shri R.S.Garg, J. :

The appellant being aggrieved by the judgment dated 3.7.97. passed in Sessions Trial No.403/96, by the learned Seventh Addl.Sessions Judge, Bilaspur, convicting the appellant under Section 307 I.P.C. and sentencing him to undergo for R.I. for 5 years , has filed this appeal.

2). The prosecution case in brief is that on 29.8.96, the victim Ku.Bina was collecting the water at a public tap with her sister Ku. Binda Bai. The accused came on the spot with a knife, started abusing all and made attack on the victim Bina. After suffering the injuries the victim fell on the ground. The matter was immediately reported to the police, the police referred the girl to the hospital for her medical examination and repair of the injuries; certain articles were recovered at the instance of the accused, spot map was prepared, statements of the witnesses were recorded and on completion of the investigation the challan was filed. The appellant-accused denied the commission of

offence , therefore, he was put to trial. After recording the statements of the witnesses and hearing the parties, learned trial Court convicted and sentenced the accused as referred to above.

3). Shri Rajeev Shrivastava, learned counsel for the appellant submits that as there is material contradiction in the statement of P.W.1 Bina relating to lodgement of the report and as the said injuries found on the person of the said victim could be caused by fall, learned Court below was unjustified in convicting the appellant.

4). Shri Ranbir Singh,learned counsel for the State on the other hand submits that the statements of Bina is supported by the statement of P.W.2 Binda(Sister of the victim) and P.W.5 Ramfal, father of the victim. According to him the injuries which are stab wounds could not be caused by fall.

5). True it is that in paragraph 2 of the statement P.W.1 Bina had stated that after suffering the injuries she fell in a pot hole and thereafter she regained her consciousness in the hospital. It is also true that the F.I.R. Ex.P/1 contains her signatures . On the basis of this, it is said to be argued that if the girl lost her consciousness and regained the same in the hospital , then the F.I.R. would become suspicious piece of evidence. The argument of the learned counsel loses sight of paragraph 7 of the statement of the said witness. She clearly stated that her relations were telling her that she was first taken to the police station

and thereafter she was taken to the hospital. Even assuming that the F.I.R. is not proved, then too the facts which are floated on the surface of the record would justify the conviction of the appellant. P.W.1 Bina had clearly stated that she suffered the injuries on her waist, armpit, front and on the chest . P.W.2 Binda and P.W.5 Ramfal have supported the prosecutrix on every material count. P.W.7 Dr. M.K.Rai had clearly stated that he found three stab injuries on the person of the victim. He also certified that the injuries were sufficient to cause death in the original course of the nature. No suggestion had been given to the witness that injuries could be caused by a fall. Even assuming that some injury could be caused by fall on a sharp object, then the placement of injuries on three different parts of the body would certainly show that the injuries could not be caused by single fall. The injury no.1 was on the abdominal region, injury No.2 was on the buttock while the injury No.3 was under the armpit. The depth of the injury in each case is varying between 3 to 5 cms. Assuming that she fell in a ditch, then unless it is shown or suggested that she suffered other two injuries in the same fall, the defence suggestion cannot be accepted.

6). After going through the entire records, I am unable to hold that the F.I.R. was not lodged by the victim or the injuries were caused by fall. The Court below was certainly justified in recording the findings against the accused. So far as the question of sentence is concerned, it is not necessary

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to look into the same because by now the accused has already undergone the entire sentence.

7). The appeal deserves to and is accordingly dismissed.

Sd/-
R.S. Garg
Judge

05.09.2001.

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